

Application No. 10/633,880
Amendment dated December 30, 2005
Reply to Office Action of September 30, 2005

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Docket No.: 20003-7012

REMARKS

Claims 14–16 and 37 have been allowed and the remaining claims prior to the present amendment have been objected to and rejected. Objections to the claims included the previous version of the claims using the term “butted” in conjunction with hingedly or moveably. As pointed out in the Office Action, this feature was not affirmatively described in the specification as a necessary limitation of the invention. While the undersigned did not offer the description of the term as a definition as characterized by the rejection (the term butt-hinge is a well-understood term of art and needs no definition) the term has been removed from the claims as it would appear to unduly limit the claims as the attachment of the former to the shaft need not be butted-hingedly coupled but small extensions or other coupling could be possible. However, the application is clear that the device is designed for single-handed operation and as such any extensions could not be handles or other manipulable systems. One reason that the claims do not require single-handed operation is that some users optionally put a second hand on the single functional shaft. Thus the application discussion of single-handed refers to the single operable handle as well-described and shown in the application as originally filed.

Thus the objections and rejections based upon the previous use of the term “butted” are respectfully asserted to be moot as that term has been removed – the Examiner’s attention to this point is greatly appreciated.

Rejections/Cited References

Maxwell '344 – This patent fails to teach the claimed invention for several reasons. The rejection cites Figure 3 – however the elements identified as the scoop/former are both pivotally coupled to the element identified as the shaft. The claims, as amended, recite that one of the elements be fixed to the shaft and the other element is moveably attached in one way or another, depending upon the claims. As shown and described in the patent application as originally filed, the scoop element is fixed relative to the shaft (as claimed) and not moveable (as disclosed in Maxwell).

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Blevins '273 – This patent fails to teach the claimed invention for several reasons. As amended, the claims now recite that the moveable element is coupled to the shaft (in the drawings and in the application discussion, the moveable element is shown attached to the shaft near the point where the scoop is formed/provided). In either case, the element identified as the former (e.g., the moveable element) in Blevins '273 is not coupled to either – it is coupled to an outside casing that surrounds the "scoop" and "shaft" elements identified in the Office Action. The recited discussion of proximate and proximal and the provision of the definitions is respectfully requested to be reconsidered. The term as discussed was that the element was coupled to the scoop (previous claim language) and shaft (current claim language) – in neither case is the element in Blevins '273 coupled to either. The characterization of the Office Action appears to qualify proximate to not require the claimed coupling limitation.

With respect to claim 7, claims dependent thereon, and other claims having the former biased to the open position – the rejection identifies element 12 as the former (the moving element). However, the Office Action fails to explain how this element 12 is biased to an open position – there appears to be no biasing of element 12. There is very little substantive discussion of the operation of the Blevins' coil – other than describing an ejecting system. It appears that the coil permits the scoop and shaft to be extended outside the housing (when the "former" is unlatched) with the coil withdrawing the shaft when released. However, the coil does not retract the scoop far enough that the scoop exposes the slot 8 where snow is gathered. Thus even the scoop is not biased to an open position. In any event, the former element 12 is not asserted to be biased.

Additionally, claims 1 and 25 now recite an organization of the components cooperate using a single-handed operation. Blevins does not provide for single-handed operation. The cylindrical housing is grasped to scoop snow into the body through the side opening slot 8.

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Further, claims 1, 23, 35, and 36 have been recited to positively recite that the forming element fixed to the shaft (e.g., the "scoop"), specifically the opening of the cavity, has a particular relationship to the shaft. This relationship is shown in the Figures and orients the snowball retained within the scoop into a launch position wherein the object retained within the scoop may be launched by swinging the apparatus from the grip.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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